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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,549	10/14/2003	James O. Jensen	212/476	3479
7590 Crockett & Crockett Suite 400 24012 Calle De La Plata Laguna Hills, CA 92653		05/29/2007	EXAMINER DEMILLE, DANTON D	
			ART UNIT	PAPER NUMBER
			3771	
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		05/29/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/686,549	JENSEN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Danton DeMille	3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 March 2007.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 10-30, 32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 10-18 and 24-30 is/are rejected.
- 7) Claim(s) 19-23, 32 and 33 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Oath/Declaration*

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

The present declaration recites Title 37, Code of Federal Regulations Sec. “1.56(a)”. The entire rule has to be recited not just paragraph (a).

### *Double Patenting*

**Claim 10 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686,186 in view of Hwang.** Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to include a recess or channel beam as taught by Hwang to support the belt within the platform and feed it to the chest of the patient who is laying on top of the platform.

**Claims 11-33 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686,186 in view of Hwang as applied to claim 10 above and further in view of Sherman et al. (US 6,066,106).** It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include the brake, clutch and gearbox as claimed as taught by Sherman to complete the details of the device.

**Claim 10 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/686,184 in view of Hwang.** It would have been obvious to modify the pending claims to include a recess or channel beam as taught by Hwang to support the belt within the platform and feed it to the chest of the patient.

**Claims 11-33 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686,184 in view of Hwang as applied to claim 10 above and further in view of Sherman et al. (US 6,066,106).** It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include the brake, clutch and gearbox as claimed as taught by Sherman to complete the details of the device.

**Claim 10 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686,185 in view of Hwang.** It would have been obvious to modify the pending claims to include a channel beam as taught by Hwang to support the belt within the platform and feed it to the chest of the patient.

**Claims 11-33 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686,185 in view of Hwang as applied to claim 10 above and further in view of Sherman et al. (US 6,066,106).** It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include the brake, clutch and gearbox as claimed as taught by Sherman to complete the details of the device.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections***

**Claim 10, 24 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hwang or Mollenauer et al.**

Hwang teaches a housing in figure 20 for supporting the patient, a motor driving electric gear 350, a channel beam or recess 329 that extends laterally across the width of the housing, a drive spool 364, 364' spanning the channel beam 329 and a belt 318. Hwang teaches a motor attached to a driving gear at the bottom of page 14. The motor is connected to the spools 364, 364' for tightening the belt about the chest of the patient that would lead to at least some compression. The motor would be mounted within the platform in the same way as the driving piston is mounted as shown in figure 20.

Mollenauer teaches a housing in figure 7 for supporting the patient, a motor disposed within the housing, a channel beam extends laterally across the width of the housing for receiving the compression module 26, a drive spool figures 4 and 5 spanning the channel beam within the compression module 26, and a belt 3 within the compression module 26.

**Claim 11-18, 25-28 rejected under 35 U.S.C. 103(a) as being unpatentable over either Hwang or Mollenauer et al. in view of Sherman et al. '106.**

Sherman teaches the advantages of using a brake and clutch system for controlling the operation of the belt tightening. It would have been obvious to one of ordinary skill in the art to modify either Hwang or Mollenauer to use a brake and clutch system as taught by Sherman to better control the operation of the belt tightening.

Regarding claim 25, Sherman teaches using a torque sensor to measure current supply to the motor to measure force applied to the patient's chest, column 11, line 35 to column 12, line 3. Such would have been an obvious provision to better control the operation of the device.

**Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 10 and further in view of Nichols.**

Nichols teaches within the housing of a motor and driven spool it may be necessary to provide vent slits within the housing, paragraph 23. It would have been obvious to one of ordinary skill in the art to further modify either Hwang or Mollenauer to include vent slits as taught by Nichols to cool the motor within the small housing.

***Allowable Subject Matter***

Claims 19-23, 32 and 33 are objected to as being dependent upon any rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 10-18, 24-30 have been considered but are moot in view of the new ground(s) of rejection.

It would appear that Hwang does teach the claimed invention by providing a motor as noted at the bottom of page 14 within the housing. A similar arrangement is set forth in figures 20 and 23 where there is a pneumatic cylinder powering the winding of the belt. The bottom of page 25 sets forth a driving cylinder 355 to rotate driving gear 357 and electric gear 350.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

23 May 2007

*/Danton DeMille/*

Danton DeMille

Primary Examiner

Art Unit 3771